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ABSTRACT

This report presents model regulations to establish a program of adult protective services, which would facilitate the identification of high risk adults, and warrant delivery of life-sustaining services. The report reviews the personal and environmental circumstances which lead to jeopardy, including deinstitutionalization of the disabled, changes in the role of the family, and in those who become less self-reliant due to widowhood or increasing age and enfeeblement. Specific flaws in the existing adult protective services system, which limit or foreclose intervention in such cases, are examined, and elements essential to make an adult protective services statute truly responsible to the real life circumstances and deadlines it encounters, are outlined. The origins of the model from its inception in a committee on adult homes in the Nassau division of the National Association of Social Workers are noted, as well as the responses from other states. The model program describes organization in the local department of social services, responsibilities of the protective services program, charges and fees, reporting requirements and procedures, voluntary and involuntary provision of services, cooperation of other agencies, and annual reports. The appendix provides an illustration of the model process. (JAC)

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MODEL ADULT PROTECTIVE SERVICES LAW

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NASSAU DIVISION, NEW YORK STATE CHAPTER
NATIONAL
ASSOCIATION OF SOCIAL WORKERS

JANUARY 19, 1982

CG 017227



NASSAU DIVISION

N. Y. S. CHAPTER

NATIONAL ASSOCIATION OF SOCIAL WORKERS, INC.

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January 19, 1982

Dear Reader:

Anticipating that you too have experienced great frustration over the lack of protections available to our more defenseless adults, we urge your thoughtful support for the ultimate adoption of an adult protective services statute similar to that proposed herein.

The need for adult protective services has precipitated the passage of a number of related statutes. However, taken together they seem to be either too limited to apply to the broad range of circumstances commonly encountered or too cumbersome to be brought to bear when they are needed.

In the pages which follow, we have attempted to shed light on three factors of critical importance:

- . The personal and environmental circumstances which lead to jeopardy.
- . The specific flaws in the existing adult protective services system which limit or foreclose intervention in such perils, and
- . Those elements essential to an adult protective services statute which would make it truly responsive to the real life circumstances and deadlines it encounters.

While we recommend adoption of the model statute in its entirety, we also recognize that each state must weigh the relative merits and costs of each of the model's elements in the context of the state's needs and resources.

N A S S A U D I V I S I O N
N.Y.S. CHAPTER
National Association of Social Workers, Inc.

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January 19, 1982

As the public debate evolves in the months ahead, we sincerely hope that you will contribute to its substance; and that you will urge an open examination of the issues we have outlined and of the human consequences of our continuing failure to deal with them all.

Respectfully,

Marian Goldstein

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An undertaking of this magnitude necessarily has been the work of many people. In particular, however, the Committee wishes to acknowledge:

Karin Eriksen-Perez, who suggested that the Committee undertake this project;

Carleton F. Reo, who chaired the Committee at the time it began its endeavor;

Dean John Regan, of the Hofstra Law School, whose own estimable research in this area has been an abiding inspiration to the Committee;

Marian Goldstein and Mal Newman, who as the Statute Subcommittee, composed the Committee's philosophies and concerns in an appropriate format;

Samuel Sadin, Executive Director of the Institute on Law & Rights of Older Adults, who assisted in developing a list of those most concerned; and

Sheila Alfandari, who again transformed the many drafts and scratchings into readable form.

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MODEL ADULT PROTECTIVE SERVICES LAW

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MODEL PROTECTIVE SERVICES: MODEL PROCEDURES

ORIGINS

From its inception the Nassau Division of the National Association of Social Workers has effectively represented the professional perspectives and concerns of its 1,000 members through a well articulated structure of elected officers and topical councils.

One such sub-unit, the Ad Hoc Committee on Adult Homes, convened in August, 1975 to bring attention to the deficiencies in the operations of licensed adult homes and to the inadequacies of the existing regulations which affected them. The committee attracted to its membership a variety of individuals representing public and private agencies and professions all of which provided direct services to the residents of adult homes, and who had neither proprietary nor regulatory interests in the facilities themselves.

When the committee undertook to draft its Model Regulatory Standards for PPHA's, its goal was modest: to recommend to legislators and to professionals in the field that statute and regulations begin to address the specific problems being experienced daily by the various committee members in the confines of adult homes in Long Beach, New York.

The committee was not fully prepared for the warm and extensive reception which the Model Regulatory Standards did ultimately receive. The problems which we thought might be unique to Long Beach were not. Our numerous correspondents confirmed to us the existence of similar circumstances throughout New York State, and throughout the continent. Since its publication, public and private agencies, and public officials in thirty-one states and in Canada have requested copies. At least one state, New York developed new regulations which owe a significant debt to the Ad Hoc Committee's prototype standards. Promulgated in September, 1978, the regulations of the Division of Adult Services respond to nearly all of the concerns recited in the model regulatory standards. Most important, the new rules provide a practical and effective vehicle for regulating and monitoring the activities and operations of the licensed adult homes in New York State, including those in Long Beach, the original focal point of the committee.

Having successfully completed its self-appointed task to write standards for congregate care facilities, the committee subsequently hoped to adjust its view to a different but as yet unspecified problem. Selection of an appropriate issue was facilitated shortly thereafter by an informal request from the Department of Social Services that the Ad Hoc Committee now consider developing an Adult Protective Services statute. In the aftermath of the state's massive deinstitutionalization program the necessity for such legislation was apparent to the individuals comprising the committee. Their clientele were, by and large, needy adults, whether the elderly or the mentally disabled. The committee eagerly accepted the challenge to design remedial and protective legislation for the sake of its clients and any other adults similarly situated. The proposed statute which follows is the committee's answer to that challenge.

COMMITTEE MEMBERSHIP

As members now or in the past, all of the following individuals were involved in the evolution of the Committee's recommendations, and are listed with their concurrent affiliations and titles.

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PERSPECTIVES

The Committee's search for a regulatory solution to the neglect and exploitation of adult home residents has inevitably extended farther than those walls. It has exposed the broader occurrence of dire human circumstances in and beyond congregate quarters which beg not only for potent regulation but for practical statutory definition and statutory warrant.

In their experience the members of the Committee have been witness to a great number of fragile and otherwise vulnerable individuals who live in lingering jeopardy; individuals who are left, to all intents and purposes, unprotected in spite of those adult protective service statutes and systems which nominally exist for their benefit.

Today, there are thousands of adults who live virtually invisibly among us and who yet lack either the ability to recognize the jeopardy they are in or the foresight, opportunity, hope, courage or means to protect themselves from it.

Notable among them are the "deinstitutionalized", those who, in effect, have been abandoned by the institutions which formerly cared for them. Many others have been widowed and left behind with only the faded and tattered endowment of their previous better life. Still more have lived alone robustly for most of their adult lives and now, due to increasing age and enfeeblement, simply are no longer self-reliant.

In former times families made room and cared for their more fragile and needy members. However, today more often than not, relatives no longer view themselves as responsible for such a role. Historically speaking it has been but a moment since such persons have been turned over to the care of the state. Yet in that twinkling of time government has compressed ages of bureaucracy. First it evolved a vast array of institutional settings to care for them, and then "returned" them to that often illusory social structure called "community" when fiscal and libertarian imperatives prevailed.

Almost daily in this "community" we pass, we briefly touch these "returned" human beings and their counterparts who have never left the community. The grim knowledge that many among us live within the shadow but not the shelter of our society confronts us repeatedly. Compounding our own personal experiences, the electronic and print media bring many similarly distressing circumstances to our attention. And, in the seeing, in the reading, and in the hearing, each of us has recognized any number of points along the way when common sense and compassion could and should have intervened to relieve the passages of these lives from their miserable outcomes.

While we would all insist that those who genuinely need protection should be afforded it, there are many impediments to the fulfillment of this most fundamental and civilized wish.

In the first instance, the majority of those in need of protection are not recognized as needing protection.

- . Little has been done to develop either the public awareness, procedures, or systematic linkages necessary to lead to their identification.
- . Those who know of potential abuse, neglect or need are under no more than a moral compulsion to bring it to the attention of those who might intervene. More importantly, the disincentive to report is great. Anyone who reports suddenly exposes himself to virtually unlimited civil liability.
- . There are no commonly known mechanisms for reporting emergent situations outside normal governmental business hours.

In the second instance, if a report is nevertheless made, in many cases no remedial action is possible.

- . The financing of Title XX of the Social Security Act, from which payment for adult protective services is made, is insufficient to ensure the adequacy of the services to be provided.
- . Local governments resist absorbing the increased financial burden of providing for those who lack historical ties in their jurisdictions but who have become their legal charges due to changes in state and federal policies.
- . Adult protective services staff in local departments of social services are increasingly being converted into generalists, thus losing the benefit of their specialized knowledge and skills.
- . This staff's authority is limited to offering and arranging for services to those who are willing to accept them. The present law allows neither the right of access to determine need nor the authority to attend to the need without the consent of these endangered adults.
- . To the extent that service workers can call upon other mechanisms, such as involuntary commitment, conservatorship, and competency proceedings to intervene in involuntary situations, such are often either:
 - Reserved exclusively for the most extreme circumstances and are, therefore, unavailable to the majority who might benefit.
 - So cumbersome or difficult as to discourage the participation of essential third parties.

- So lengthy as to nullify their usefulness in situations of relatively imminent jeopardy.

If we genuinely intend that these individuals should no longer go unprotected, then these many obstacles to that goal must be overcome. Given the severe deficiencies in the current body of laws upon which the range of adult protective services is based, these obstacles can be addressed by the enactment of a vastly more comprehensive statute, and one for which adequate appropriations are made.

Specifically, an effective adult protective services law should contain a number of key provisions which ensure:

Broad Applicability

That it apply to all in need who are not otherwise protected under other provisions of law.

Sustained Public Awareness

That sufficient publicity be given to the problem and the service to heighten public sensitivity and encourage requests by those in need and reports by those who know of them.

Functioning Network Linkages

That extensive formalized linkages and procedures be developed with those providers (e.g., police, hospitals, physicians, public utilities, senior citizen offices, mental health clinics) most likely to encounter those in need of such services.

Mandatory Reporting

That all appropriate licensed professionals be required to report apparent instances of individual's need, under penalty of law.

Immunity

That all acts made in good faith in furtherance of the statute's purposes and in accordance with its provisions should be immune from civil and criminal liability.

Penalties

That penalties be imposed upon those who fail in their statutory obligation to properly report individuals who appear to be endangered.

Statewide Report Registry

That a mechanism exist which has the capacity to integrate various reports made in behalf of the same individual regardless of the jurisdiction(s) within the state from which they might originate.

Confidentiality

That confidentiality be assured to those about whom reports are made.

Local Implementation

That the service be established and made available in each local social service district.

Limitation on Local Fiscal Responsibility

That the state assume full fiscal responsibility for those program-related costs which are not already fixed by law to be shared between the locality, the state, and as applicable the federal government.

Specialization

That local social service districts establish specialized adult protective services units and staff.

Impartial Investigation & Service Plan Development

That all investigations of need and development of prescriptive adult protective service plans be the central and direct responsibility of adult protective service units.

Purchase of Services

That local districts be permitted to purchase those other services which it can effectively oversee when such arrangements might better serve the fiscal or other interests of the districts.

Investigatory Obligations

That those investigations undertaken be sufficient to permit conclusions as to whether or not probable need exists.

Acceptance of Services

That every reasonable effort be made to secure the consent and cooperation of those who are found to be in need of such services.

Services Absent Consent

That the adult protective service have the authority to provide, with court concurrence, those services which sustain the life and immediate environment of the endangered adult even in the absence of the individual's consent.

Assigned Counsel

That independent counsel be provided at no cost to represent the interests of individuals who may be made involuntary recipients of adult protective services through the courts.

ARTICLE 12 ADULT PROTECTIVE SERVICES

§ 501. PURPOSE

This article is designed to establish a program of adult protective services; to facilitate the identification of an adult who is in peril; to warrant delivery of life-sustaining services to such an adult.

§ 502. DEFINITIONS

In this article the following terms have the meaning indicated:

1. "Endangered adult" shall mean an individual 18 years of age or older, or any minor not otherwise covered under the family court act, who is alleged to be unable to protect his or her own interests, and who is harmed or threatened with harm through action or inaction by either another individual or through his or her own action or inaction, due to lack of awareness, incompetence or incapacity by reason of poor health which has resulted or may result in physical or mental injury, neglect or maltreatment, failure to receive adequate food, shelter or clothing, deprivation of entitlements due him or her, or wasting of his or her resources.
2. "Commissioner" shall mean the state commissioner of social services.
3. "Local department" shall mean the city or county department of social services of the public welfare district where the adult requiring protective service lives, and which, pursuant to social service law sections sixty-one and sixty-two is defined as the jurisdiction legally responsible for providing care and assistance to needy persons.
4. "Unit" shall mean the adult protective service unit established within a local department of social services, or any or all members of its staff.

§ 503. ORGANIZATION

1. Every local department of social services shall establish an adult protective service unit within such department to perform those functions assigned by this article to it and only such others as would further the purposes of this article. The unit shall be the sole public agency responsible for investigating all reports of endangered adults made pursuant to this article and shall either directly or through arrangement ensure the provision, coordination and monitoring of those services necessary to safeguard and ensure the adults' well-being.
2. Any other provision of law notwithstanding, but consistent with paragraph one of this section, the unit, based upon the local plan of services as provided in paragraph three of this section, may purchase and utilize the services of any qualified provider.

3. Each local department of social services shall prepare and submit to the commissioner, with the approval of the chief executive officer, or the legislative body in those counties without a chief executive officer, after consultation with appropriate public, private and voluntary agencies, an annual plan for the provision of adult protective services which shall describe the local implementation of this section including the organization, staffing, mode of operations and financing of the adult protective services as well as the provisions made for coordination, monitoring and purchase of services, inter-agency relations, inter-agency agreements, service referral mechanisms, and focus of responsibility for cases with multi-agency services needs. Local protective services for adults' plans shall be an integral component of a local department's comprehensive annual social services program plan, as required by title twenty of the federal social security act. The commissioner shall establish a schedule for the submission of such plans. Within thirty days the commissioner shall certify whether or not the local plan fulfills the purposes of and meets the requirements set forth in this section. If he certifies that the local plan does not do so, he shall state the reasons therefor and he may withhold state reimbursement for all or part of the local department's protective services for adults activities. Any local department aggrieved by a decision of the commissioner under this section shall have the right to a fair hearing in accordance with the appropriate provisions of this article. In the event of an adverse fair hearing decision a local department shall be entitled to judicial review, provided, however, that the withholding of reimbursement for expenditures, incurred pursuant to disapproved portions of the protective services for adults plan shall remain operative pending final resolution of such review.

§ 504. PROTECTIVE SERVICES PROGRAM

Each unit shall be responsible for:

1. Receiving and, in a timely fashion, investigating all reports of endangered adults.
2. Providing or arranging for such environmental, medical, psychiatric, and social evaluations as are necessary to determine the need of such individuals for adult protective services.
3. Determining the need of such individuals for adult protective services.
4. Developing or providing for the development of such plan of least restrictive service as is necessary to safeguard such individuals from the effects of their impairments which cause them to be endangered.
5. Providing or arranging such formal and/or informal environmental, familial, legal, medical, psychiatric, and social services as are necessary to implement the plan of care.
6. Initiating such commitment, conservatorship, guardianship or other proceedings as are necessary to implement the plan of care.

7. Acting as or arranging for a conservator, power of attorney, or representative payee where required by the plan of care.

8. Coordinating and monitoring the timely provision of services required by the plan of care.

§ 505. CHARGES AND FEES

1. If and only to the extent the imposition of a fee is required by federal law and regulation to insure continued full federal financial participation in the state's plan for services under applicable federal law and regulations, the commissioner shall, by regulation, require a local department to impose a fee for any service made available by it to an individual who is not a recipient of public assistance and care.

2. The net cost of all such protective services as are not entitlements or otherwise mandated or made available for such purposes by federal, state and local governments shall be borne by the state.

§ 506. REPORTING REQUIREMENTS AND PROCEDURE

1. Statewide Central Register

a. The commissioner shall establish a statewide central register of reports made pursuant to this article.

b. The central register shall be capable of receiving reports of endangered adults seven days a week, twenty-four hours a day. To effectuate this purpose the commissioner shall establish a single toll-free statewide telephone number that all persons, whether or not mandated by law, may use to report endangered adults, and that all persons so authorized by this article may use for determining the existence of prior reports in order to evaluate the condition or circumstances of the endangered adult before them. Such oral reports and evidence of previous reports shall be transmitted to the appropriate unit in a timely fashion.

c. The central register shall include but not be limited to the following information: the names and other identifying information relating to individuals reported, the local department responsible for investigation of each such report, the names, affiliations and purposes of any person requesting or receiving information from the register, and the dates of such requests, and any other information which the commissioner believes might be helpful in the furtherance of the purposes of this article.

2. Persons required to report

a. The following are required to report or cause a report to be made in accordance with this article when they have reasonable cause to suspect that an endangered adult as defined, has come before them in their professional or official capacity: attorney, audiologist, certified social worker, chiropractor, Christian Science practitioner,

dentist, duly designated conservator, hospital administrator, licensed practical nurse, nursing home administrator, occupational therapist, optometrist, osteopath, peace officer or law enforcement official, pharmacist, physical therapist, physician, podiatrist, psychologist, registered professional nurse, speech pathologist. Whenever such person is required to report under this article in his capacity as a member of the staff of a medical or other public or private institution, facility, or agency, he shall immediately notify the person in charge of such institution, facility, or agency, or his designated agent, who thereafter shall become responsible to report or cause reports to be made. However, nothing in this section or article is intended to require more than one report from any such institution, or agency.

b. In addition to those required to report, any person, including an endangered adult, may make such report if such person has reasonable cause to believe that a person is endangered as defined in section five hundred two.

3. Reporting Procedure

Reports made pursuant to this article shall be made immediately by telephone and in writing within forty-eight hours after such oral report. Oral reports shall be made to the statewide central adult protective service registry unless the local plan for the provision of such services provides that oral reports shall be made to the local department. In those localities in which oral reports are made initially to the local department, such reports shall then be communicated immediately to the central register by telephone and in writing within forty-eight hours of the oral report. Such other written reports as are required shall be made to the appropriate local department in the manner prescribed and on forms supplied by the commissioner. Each such report shall, where possible and appropriate, include: the name, address, or other location where the endangered adult can be found, physical description of the endangered adult; the nature and extent of the endangerment and consequent jeopardy; the names, addresses, and telephone numbers of the endangered adult's family members; the name, address, telephone number and action taken by the person making the report; and any other information which the commissioner may, by regulation, require in furtherance of the purposes of this article.

4. Confidentiality

a. Reports made pursuant to this article as well as any other information obtained, reports written or photographs taken concerning such reports in the possession of the commissioner or local department shall be confidential and shall only be made available to:

(i) a physician who has before him an adult whom he reasonably suspects may be endangered as defined;

(ii) a duly authorized agency having the responsibility for the care or supervision of a subject of the report;

(iii) any person who is the subject of the report;

(iv) a grand jury, upon a finding that the information in the record is necessary for the determination of charges before the grand jury;

(v) any appropriate state legislative committee responsible for adult protective legislation;

(vi) any person engaged in a bona fide research purpose, provided, however, that no information identifying the subjects of the report shall be made available to the researcher unless it is absolutely essential to the research purpose and the commissioner gives prior approval; and

(vii) a district attorney or other law enforcement official.

b. No information may be released unless the person or official's identity is confirmed by the commissioner.

c. A person given access to the names or other information identifying the subject of the report, except the subject of the report, shall not divulge or make public such identifying information unless he is a district attorney or other law enforcement official and the purpose is to initiate court action. Any person who willfully permits the release of any data or information obtained pursuant to this article to persons or agencies not permitted such access by this article shall be guilty of a class A misdemeanor.

5. Immunity

Any person and any organization represented by such person participating in the making of a report, performing duties under this article or participating in a judicial proceeding resulting therefrom shall be presumed prima facie to be acting in good faith and in so doing shall be immune from any liability, civil or criminal, that otherwise might be incurred or imposed. Further, no employee of an organization serving endangered persons shall be subjected to reprisal or discharge because of his actions, made in good faith, as an employee of such organization, in reporting pursuant to the requirements of this section.

6. Penalties for failure to report

a. Any person required by this article to report a case of an endangered adult as defined in section five hundred two and knowingly and willfully failing to do so shall be guilty of a Class A misdemeanor.

b. Any person, official, any medical or other public or private institution, facility, or agency required by this article to report a case of an endangered adult as defined in section five hundred two and knowingly and willfully failing to do so shall be civilly liable for the damages proximately caused by such failure.

c. Any person required by this article to report a case of an endangered adult and willfully failing to do so shall be reported by the commissioner to the appropriate committee on professional conduct, or, in the case of a residential health care facility administrator, to the board of examiners of nursing home administrators, or in the case of a physician to the state board for professional medical conduct.

§ 507. VOLUNTARY PROVISION OF SERVICE

If upon evaluation, the determination is made that the person is an endangered adult, and is in need of adult protective services, a plan for the delivery of such services as are required will be prepared by the unit, reviewed with the endangered adult and consented to in writing.

§ 508. INVOLUNTARY PROVISION OF SERVICES

1. Every reasonable effort shall be made to secure the consent and participation of the endangered adult in the evaluation and resolution of his or her own need for adult protective services.

2. The unit shall have authority to provide immediate food, heat, and/or supervision in the absence of the endangered adult's consent, if it has determined that:

a. The endangered adult is in imminent danger due to a lack of sufficient food, heat, and/or supervision,

b. provision of sufficient food, heat, and/or supervision will alleviate the endangerment.

c. the absence of consent may be due to the endangered adult's failure to comprehend either the nature of said situation or the consequences of its continuation, and

d. no other statutory or otherwise appropriate remedy is, as a practical matter, available.

3. Within twenty-four hours the local department shall petition the court for a provisional protective order pursuant to this article.

4. Where absence of consent precludes direct evaluation of the endangered adult's need for adult protective services, the unit shall conduct such investigation of collateral sources as will permit disposition of the report by either a written decision that such report is unfounded or, if founded, by court review.

§ 509. PROVISIONAL PROTECTIVE ORDER

If, in the absence of appropriate consent there exists evidence of a threat to the life of the endangered adult, the local department shall petition the court for the issuance of a provisional protective order, and for the assignment of counsel to represent the endangered adult.

1. Venue

Said petition shall be made in the supreme court within the judicial district, or in the county court of the county, in which the endangered adult is found.

2. Assigned counsel

No such proceeding shall commence unless the endangered adult has been assigned counsel.

3. Notice

The endangered adult and assigned counsel shall be afforded service notice of such hearing no later than the day immediately preceding the day of the hearing. Said notice shall be an order to show cause, shall consist of the name and location of the court and date and time of the hearing, and shall be accompanied by a copy of the petition.

4. Petition

Such petition shall contain the name, age, physical description and address or other location where the endangered adult can be found, the direct and collateral evidence supporting the allegation of a life-threatening situation, the action taken to secure the consent of the individual and to remedy the life-threatening situation, and the services for which the court's authorization is being sought.

5. Preference

The special proceeding authorized by this article shall have preference over all other causes in all courts of appropriate jurisdiction.

6. Hearing

a. A hearing shall be held within seventy-two hours of the signing of the order to show cause.

b. Rules of evidence shall not be strictly construed. Hearsay evidence shall be admissible.

7. Decision

The court shall render a decision and order immediately.

8. Order

Said protective order shall be limited to the following:

a. Gaining forcible entry into the home of the endangered adult for purposes of determining whether or not such life-threatening situation exists. Such forcible entry shall require that a peace officer acting pursuant to his special duties, or a police officer, who is a member of an authorized police department or force or of a sheriff's department be present, and/or

b. requiring the provision of such adult protective services as will ameliorate the life-threatening situation and permit the endangered adult to remain within his or her own residence or, where his or her own residence cannot, as a practical matter, be rendered safe or maintained for the endangered adult's use, in such other residence as the court determines is adequate and appropriate, or

c. removing the endangered adult to a hospital as defined in article twenty-eight of the public health law if essential to end such life-threatening situation, provided, however, that the endangered adult is not to be admitted to any part which is subject to the powers of visitation, examination, inspection and investigation of the commissioner of mental health.

9. Term of the provisional protective order

The court shall possess continuing jurisdiction until:

a. the life-threatening situation no longer exists nor is likely to recur if the provisional protective order terminates, or

b. the endangered adult consents to the provision of those services which will be likely to ameliorate the life-threatening situation, or

c. conservatorship, committee or other more applicable and protective provisions of law have been applied for and effected.

10. Authority under other provisions of law

This section shall not be construed as limiting in any way the authority of the court, of a peace officer or a police officer, or of any other duly appointed official to intervene in emergency circumstances under existing statutes or the common law.

11. Responsibility of the unit

During the term of the provisional protective order it shall be the responsibility of the unit to:

a. Provide and/or arrange for such adult protective services as are directed by the court.

b. Determine the extent to which life-threatening circumstances persist.

c. Determine the extent to which life-threatening circumstances will be likely to recur if the provisional protective order is terminated.

d. Seek the endangered adult's consent to the provision of such adult protective services as have been ordered by the court and, failing such consent, to seek consent to the provision of such other adult protective services as are likely to ameliorate the life-threatening situation.

e. Arrange for such protections as other, more applicable provisions of law may afford.

f. Petition the court for rehearing at such intervals as are required by the court, or by the provisions of this section, or in such other circumstances as are required by this section.

12. Rehearing

a. For as long as the court retains jurisdiction, the local department shall petition the court for rehearing of the matter at prescribed intervals. Such petitions shall be filed no later than thirty days, sixty days, six months, one year and thereafter on the anniversary following the issuance of the initial provisional protective order.

b. The local department shall, and the endangered adult may also petition the court for rehearing when:

(i) adult protective services as ordered by the court have not ameliorated the life-threatening situation for the endangered adult, or

(ii) the life-threatening situation no long exists and its recurrence, in the event the provisional protective order is terminated, has been determined to be unlikely, or

(iii) the endangered adult has consented to the provision of such adult protective services as have been ordered by the court, or such other adult protective services as are likely to ameliorate the life-threatening situation,

(iv) other more applicable provisions of law have been applied for and effected.

§ 510. COOPERATION OF OTHER AGENCIES

To effectuate the purposes of this article, the commissioner may request and shall receive from departments, boards, bureaus, or other agencies of the state, or any of its political subdivisions, or any duly authorized agency, or any other agency providing services under the local adult protective services plans such assistance and data as will enable the commissioner and local department to fulfill their responsibilities properly.

§ 511. ANNUAL REPORTS

The commissioner shall seek, prepare, and transmit to the governor and the legislature, an annual report on the operations of the state central register of endangered adults and the various local departments. The report shall include a full statistical analysis of the reports made to the central register together with a report on the implementation of this article, an evaluation of services offered under this article and recommendations for additional legislation to fulfill the purposes of this article.

§ 512. REGULATIONS OF THE COMMISSIONER

The commissioner shall adopt regulations necessary to implement this article.

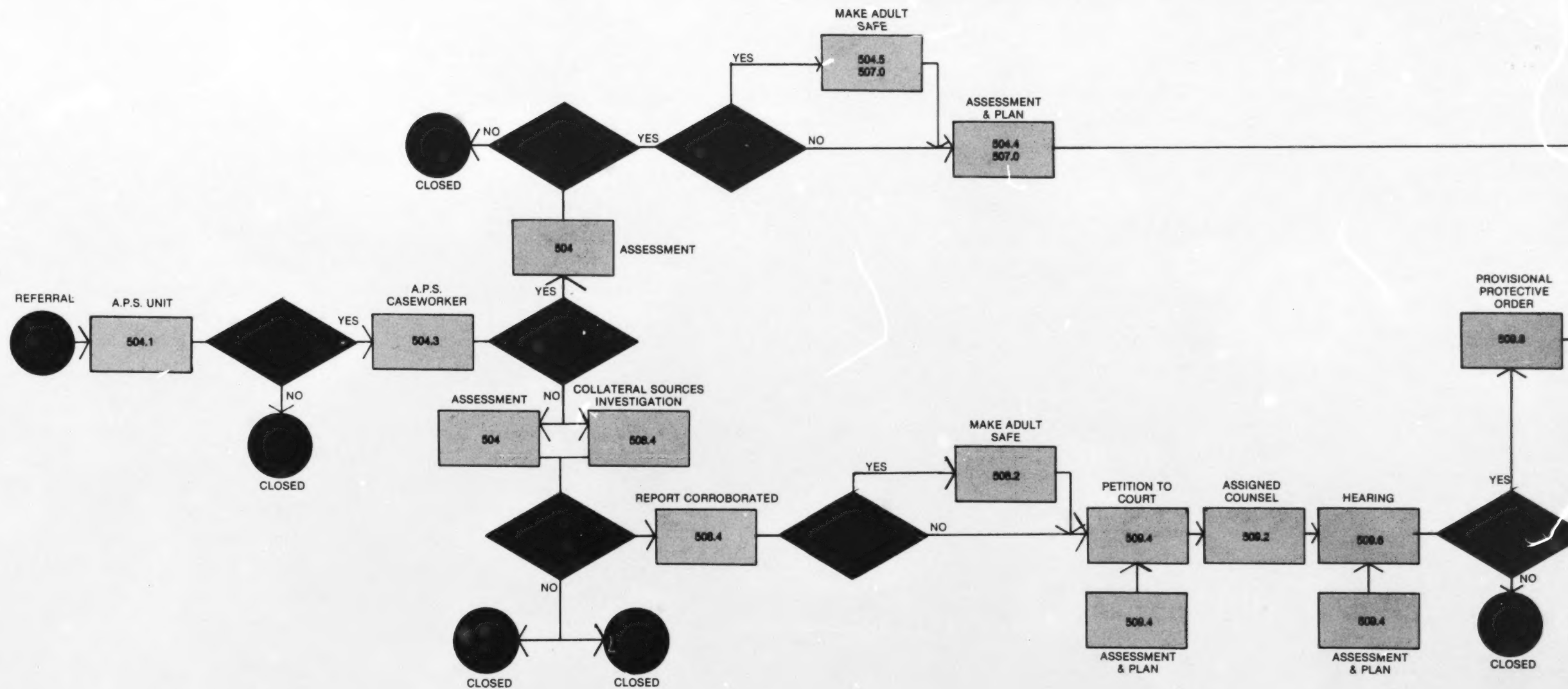
§ 513. SEPARABILITY

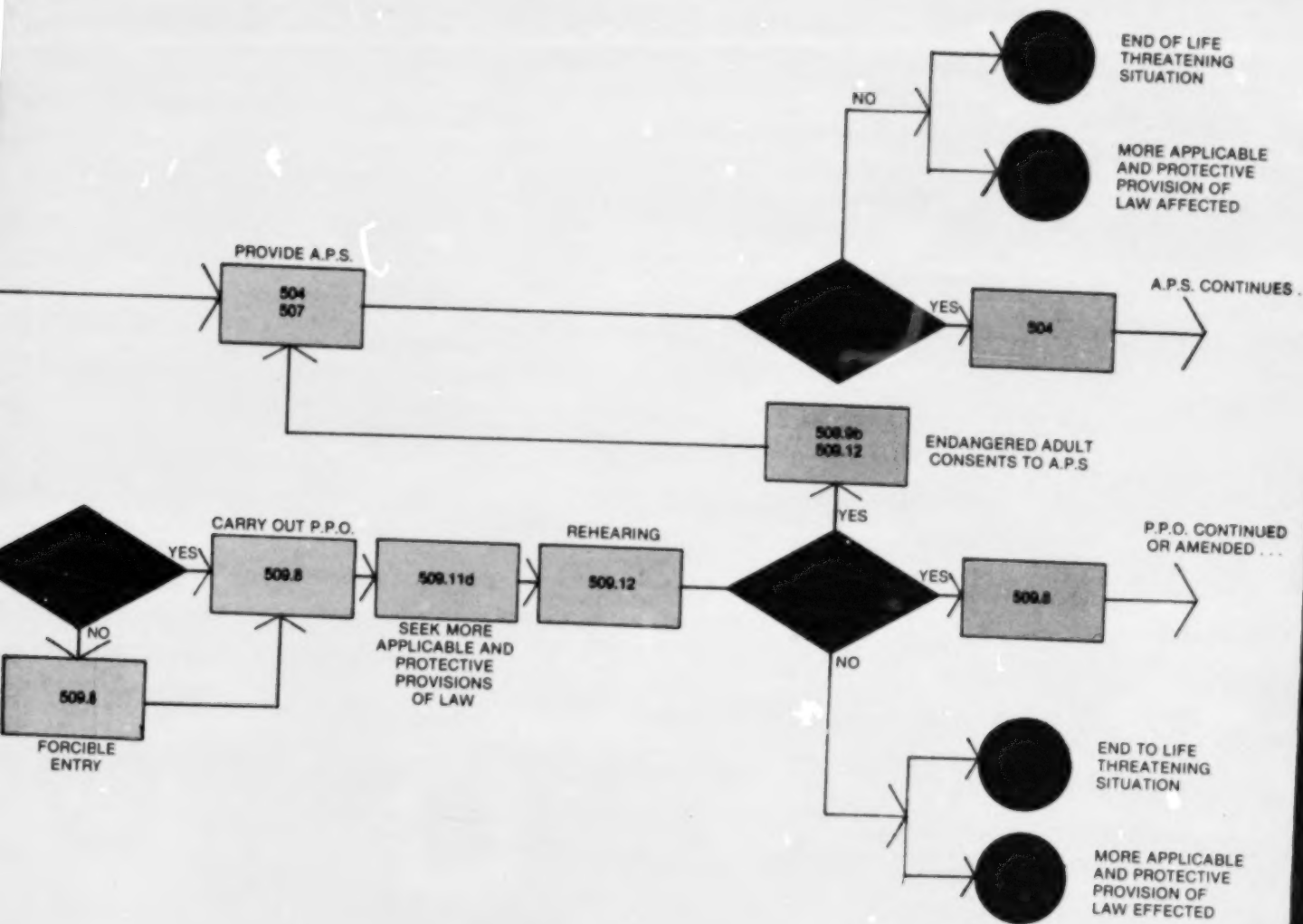
If any provision of this article or the application thereof to any person or circumstances is held to be invalid, the remainder of the article and the application of such provision to other persons or circumstances shall not be affected thereby.

While the Ad Hoc Committee on Adult Homes has made every effort to assure the suitability of its recommendations, neither the Committee, its members, nor the agencies they represent, nor the New York State Chapter, nor the Nassau Division of the National Association of Social Workers, nor any of their members accept any liability resulting from their adoption or non-adoption, or for the completeness of the text.

APPENDIX

ADULT PROTECTIVE SERVICES: MODEL PROCEDURES





KEY

